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Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

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AUG 1	5 2003	

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In the Matter of)		Federa	1 Communicat
)			Communications Commission Office of Secretary
Amendment of Section 73 202(b))	MM Docket No	03-	- 5. Occionary
Table of Allotments)	RM-		
FM Broadcast Stations)			
(Cherokee Village, Arkansas, Black Rock, Arkansas)			
and Thaver, Missouri))			

To Chief, Allocations Branch Policy and Rules Division Mass Media Bureau - Mail Stop 1800D5

PETITION FOR RULEMAKING

KFCM, Inc ("KFCM), licensee of KFCM(FM), Cherokee Village, Arkansas, 1 and Bragg Broadcasting, Inc ("BBI"), licensee of KSAR(FM), Thayer, Missouri, by its attorneys, hereby petition the Commission to amend the FM Table of Allotments, Section 73 202(b) of the Commission's Rules, in the following manner: (i) reallocating Channel 252C3 from Cherokee Village, Arkansas, to Channel 252C2, Black Rock, Arkansas, and modifying KFCM's license accordingly, and (ii) reallocating Channel 222C2 from Thayer, Missouri, to Cherokee Village, Arkansas and modifying KSAR's license accordingly.

PRELIMINARY STATEMENT

Under Section 1 401 of the Commission's Rules, any interested party may 2 petition the Commission to amend its rules or regulations. 47 C F R § 1.401(a). By filing this Petition, KFCM, Inc. and BBI (collectively referred to as the "Petitioners") are requesting

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¹ James Bragg, President, Secretary, Director and 100 percent shareholder of KFCM, Inc., is also the President, Secretary, Director and 100 percent shareholder of Bragg Broadcasting, Inc. Therefore this petition is being jointly filed by both licensee entities as a result of the common ownership

the Commission amend its FM Table of Allotments with respect to the communities of Cherokee Village and Black Rock, Arkansas, and Thayer, Missouri, as set forth in 47 C.F.R. § 73 202(b), as follows:

Community	Present	Proposed
Black Rock, AR		252C2
Cherokee Village, AR	252C3	222C2
Thayer, MO	222C2	

As shown below, because this proposal would result in a preferential new arrangement of allotments under the Commission's guidelines, the public interest will be served by amending the FM Table of Allotments, as requested herein, and modifying the authorizations for KFCM and KSAR accordingly

II. ARGUMENT

A The Petitioners' Proposals Are Not Subject to Any Competing Expressions of Interest

This Petition is being filed pursuant to Section 1.420(i) of the Commission's Rules, which allows the FCC to modify a station's license to specify a new community of license, without affording other interested parties an opportunity to file competing expressions of interest, where, as here, the proposed allotment is mutually exclusive with the station's present assignment. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Modification Report and Order") As demonstrated by the Technical Statement attached hereto as Exhibit A, the requested reallotment of Channel 252 from Cherokee Village to Black Rock and the proposed modification of KFCM's license, is mutually exclusive with

KFCM's currently authorized operations. In addition, the requested reallotment of Channel 222 from Thayer to Cherokee Village, and the proposed corresponding modification of KSAR's license, are mutually exclusive with KSAR's currently authorized operations. Accordingly, the FCC may act on this Petition without granting an opportunity to other parties to file competing expressions of interest

B The Petitioners' Proposal Does Not Violate the FCC's Minimum Distance Separation Requirements

4 Under Section 73 207 of the Commission's Rules, the Commission may accept petitions to amend its FM Table Allotments so long as the reference points of the proposed community meet all of the minimum distance separation requirements 47 C.F.R. § 73.207(a). As shown in the Engineering Statement attached hereto, the proposed reference coordinates for Black Rock are fully spaced to all facilities and proposals which must be protected. No transmitter site change is being proposed for KSAR as it provides full city grade coverage to Cherokee Village from its current transmitter site, and therefore meets the Commission's separation requirements

C Petitioners' Proposal Serves the Public Interest Under the FCC's Prerequisites and FM Allotment Priorities

The Commission has set forth two prerequisites before it will approve a "city of license" FM allotment change request (1) the former community shall not be deprived of its only existing local transmission service, and (2) the modification will result in a "preferential arrangement of allotments" under current FM allotment priorities. *Modification Report and Order*, 4 FCC Rcd at 4874 The Commission's FM allotment priorities are, in descending order of importance (1) provision for first full-time aural reception service; (2) provision for

second full-time aural reception service; (3) provision for first local transmission service; and (4) provision for other public interest factors. *See Modification Report and Order*, 4 FCC Red at 4873

- 1 First Prerequisite: Reallotment of KFCM and KSAR Will Not Deprive Cherokee Village or Thayer of Their Only Existing Aural Broadcast Service
- By virtue of this dual reallocation, no involved community will be deprived of its only existing broadcast service. While KFCM, currently the only existing aural broadcast service authorized to Cherokee Village, would be reallocated from Cherokee Village, the reallocation of KSAR to Cherokee Village would ensure a continued aural service in that community. Thayer would continue to be served by KALM(AM). Therefore, Petitioners' proposals the first prerequisite as no community would be left without an existing aural broadcast service.
 - 2 Second Prerequisite The Relocation of KFCM to Black Rock Constitutes a Preferential Arrangement of Allotments Under Established Commission Priorities.
 - a The First Two FM Allotment Priorities Are Not Material
- The first two allotment priorities set forth by the Commission are not material to a public interest determination in this proceeding since Cherokee Village, Black Rock, and Thayer already receive at a minimum more than 5 full-time aural broadcast reception services. See Exhibit A. See, e.g., Winner and Wessington Springs, South Dakota, 11 FCC Rcd 6663 (1996)
 - b The Third Allotment Priority, First Local Transmission Service, Is Decisionally Favorable in this Proceeding
- 8. The third of the Commission's allotment priorities is material as Petitioners' proposal to reallocate KFCM to Black Rock since this would provide Black Rock with its

first local aural transmission service, making this proposal decisionally favorable to a consideration of this Petition

- Black Rock exhibits a substantial number of the community indicia that the Commission has used in the past in determining whether a community deserves to have its own local service. See, e.g., Arcadia and Fort Meade, Florida, MM Docket No. 97-159 (released July 18, 1997). Black Rock is incorporated and recognized by the United States Census, with a reported population of 717 people in 2000. Black Rock has its own locally elected mayor and has its own city council, police department, volunteer fire department, post office, with two separate zip codes allotted to Black Rock, and a public school system that covers Grades K-12. There are at least five churches, a senior citizens center, two parks, an athletic complex, and a state park in the immediate vicinity. The city has its own municipal water and power. There are over ten retail businesses in Black Rock, including a large auto dealership and grocery store.
- The Commission has allotted FM channels to communities of comparable size to Black Rock as long as the community is either incorporated or listed in the U.S. Census ² Therefore, because Black Rock clearly possesses the requisite "social, economic and cultural components that are commonly associated with community status," *see, e.g., Semora*, and is incorporated and recognized U.S. Census municipality, it is worthy of its own first local transmission service

² See, e g, Reydon, Oklahoma, MM Dckt 01-227 (released February 26, 2003) (allotting an FM channel to a community of only 175 people that was incorporated and had a mayor, post office and city hall), see also, Semora, North Carolina, 5 FCC Rcd 934 (1990) (finding a

- c The Public Interest Will Be Served as the Relocation Will Result in a Gain in Area and People Served by KFCM
- Exhibit A shows that the proposed KFCM facilities will provide service to 152,552 persons over 8,519 square kilometers. The existing KFCM facilities provide service to 39,512 persons over 4,691 square kilometers. There is an overlap area between the proposed and current facilities of 17,630 persons over 2,301 square kilometers. Thus there is a gain area of 123,040 people over 3,820 square kilometers as a result of the proposed reallocation. The Commission has held that any loss area will not be considered to be underserved if a majority of people in the loss area continue to be served by five or more full-time aural services. See, e.g., Canovanas, Puerto Rico, MM Dckt. No. 91-259 (released July 2, 1997); LaGrange and Rollingwood, Texas, 10 FCC Rcd 3337 (1995). The loss area that will result from the KFCM reallocation will be 2,390 square kilometers, and an estimated 21,882 people. However, virtually all of the people and area will continue to be served by at least 5 radio broadcast services. Therefore, because there is an overall gain in the KFCM service area from this proposed reallocation and virtually no decisionally-significant loss area, the reallocation is clearly in the public interest.
- No transmitter relocation is proposed for the reallotment of KSAR from Thayer, Missouri, to Cherokee Village, Arkansas, so no gain or loss area will result from the proposed reallotment

community of only 150 people that was neither incorporated nor listed in the U.S. Census qualified as a community for allotment purposes) ("Semora").

³ Only an estimated 59 persons within a 5 square kilometer area are expected to be able to receive 4 aural services, a minimal number outweighed by the number of people that will be able to receive KFCM upon reallocation

D KFCM Would Not Move into a New Urbanized Area

The changes in KFCM's and KSAR's respective cities of license do not implicate the Commission's Urbanized Area "presumption," as neither Black Rock, Cherokee Village, nor Thayer are within any Urbanized Area. Moreover, the proposed allotments will not result in the placement of a 70 dBu signal by either KFCM or KSAR over 50 percent or more of any Urbanized Area, including the closest such area, Jonesboro, Arkansas Therefore, Black Rock should not be credited with the aural broadcast transmission services licensed to communities that lie within the Jonesboro Urbanized Area, and properly deserves the first local service preference. Moreover, as demonstrated, Black Rock is a separate, independent community.

E Petitioners' Declarations of Intent

If the Petitioners' proposal set forth herein is adopted, (i) KFCM, Inc. will file an FCC Form 301 specifying facilities for Channel 252C2 at Black Rock, Arkansas, and will promptly construct the facilities contemplated therein; and (ii) Bragg Broadcasting, Inc will file an FCC Form 301 specifying the facilities for Channel 222C2 at Cherokee Village, Arkansas.

CONCLUSION

For the foregoing reasons, KFCM, Inc. and Bragg Broadcasting, Inc., hereby jointly and respectfully request that the Commission promptly initiate the Rule Making requested herein to reallocate Channel 252C3 from Cherokee Village, Arkansas to Channel 252C2,

Black Rock, Arkansas, and to modify the license of KFCM(FM) accordingly, and to reallocate Channel 222C2 from Thayer, Missouri, to Channel 222C2, Cherokee Village, Arkansas, and to modify the license of KSAR(FM) accordingly

Respectfully submitted,

Alan C. Campbell
Jason Roberts

Irwin, Campbell & Tannenwald, P.C. 1730 Rhode Island Avenue, NW, Suite 200
Washington, DC 20036-3101
Tel 202-728-0400
Fax 202-728-0354

Counsel for KFCM, Inc. and Bragg Broadcasting, Inc.

Dated August 15, 2003

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⁴ The Census Bureau defines an Urbanized Area as consisting of a central community and adjacent densely settled areas that together have a minimum of 50,000 persons. See Section 307(b) Preferences Within Metropolitan Areas, 48 Fed. Reg. 19,428 (1993).

DECLARATION OF JAMES BRAGG

James Bragg declares under penalty of perjury that:

- I am the sole officer, director and shareholder of KFCM, Inc.
- 2 I am the sole officer, director and shareholder of Bragg Broadcasting, Inc.
- I have reviewed the Petition for Rulemaking to which this Declaration is attached, and the facts stated therein are true and correct to the best of my ability, knowledge, information and belief.

Dated August 15, 2003

Engineering Statement Proposed Allocation Black Rock, Arkansas, Channel 252 C2 First Local Service Cherokee Village, Arkansas, Channel 222 C2

This statement supports a proposal to add Channel 252 C2 to Black Rock, Arkansas, delete Channel 252 C3 from Cherokee Village, Arkansas, and modify the facilities of KFCM, facility ID 34416, to specify the new allocation at Black Rock. To maintain local service at Cherokee Village, this proposal would move Channel 222 C2 from Thayer, Missouri, to Cherokee Village, Arkansas and modify the authorization of KSAR, facility ID 87970, to specify the new allocation at Cherokee Village.

The proposed Black Rock reference coordinates, 36° 05′ 25″ North Latitude and 91° 08′ 55″ West Longitude, are fully spaced as shown in the Allocation Study on page 4 with respect to all facilities and proposals which must be protected. The only proposal which is not fully spaced is the existing Cherokee Village allocation.

KSAR can be reallocated from Thayer to Cherokee Village with no change in transmitter site. Thayer will continue to be served by standard AM broadcast station KALM, facility ID 51106.

Figure 1 shows the standard 39 kilometer service contour for a maximum Class C3 facility at the licensed KFCM coordinates and the standard 52 kilometer service contour for maximum Class C2 facilities at the proposed reference coordinates.

The proposed allocation coordinates provide principal community service to the entire community of Black Rock. Figure 2 shows the standard 32.6 kilometer 70 dBu F(50,50)

principal community contour in addition to the standard 52 kilometer 60 dBu F(50,50) service contour.

Figure 3 shows the spacing limits which define the allowable area

A standard Class C2 maximum facility 52 kilometer radius 60 dBu F(50,50) service contour produces a significant increase in the population receiving service. The existing KFCM licensed site, evaluated at a Class C3 maximum 60 dBu F(50,50) service contour serves 39,512 persons in an area of 4,691 square kilometers. The proposed facilities at the reference coordinates serve 152,552 persons in an area of 8,519 square kilometers. The area of overlap between the licensed and proposed service contours contains 17,630 persons in an area of 2,301 square kilometers. The population was tabulated from Census 2000 data for each census block whose centroid lies within the contour. The net gain is therefore 123,040 persons and 3,820 square kilometers.

This proposal represents first aural service for Black Rock, Arkansas

There are no issues of gray area or white area in either the loss area or the gain area. The entire area which would lose the service it presently receives from the KFCM Cherokee Village facilities receives at least four aural services. There is a small area of 5 square kilometers with a population of 59 persons using Census 2000 data which receives only four aural services. The remainder of the area receives at least five services. The allocation of Channel 252 C2 to Black Rock will not create any new well served areas.

There are no gains or losses for the proposed reallocation of KSAR from Thayer to Cherokee Village because there is no proposed change of transmitter site. Figure 4 shows that

he	70	dBu	principal	community	contour	for	the	existing	and	proposed	KSAR	facilities
enco	ompa	asses	Cherokee	Village.								

Black Rock PRM Allocation Study

REFERENCE 36 05 25 N 91 08 55 W

CLASS = C2 Current Spacings Channel 252 ~ 98.3 MHz DISPLAY DATES DATA 07-25-03 SEARCH 07-25-03

Call	Char	nnel	Location		Dist	Azı	FCC	Margin
KFCM	LIC	25203	Cherokee Village	AR	42.49	316.3	177.0	-134.51
KURB	LIC	253C	Little Rock	AR	188.37	220.7	188 0	0.37
KTJJ	LIC	253C	Farmington	MO	188,41	16.2	188.0	0.41
WSRRFM	LIC	25101	Millington	TN	158.81	130.6	158.0	0.81
WRIKFM	СР	25201	Metropolis	IL	248.69	72.0	224.0	24.69
One Ste	p Appli	ıcatıon	from Channel 252A	Tran	smitter	Site Locat	ed in Z	one 2
ın Kent	ucky							
ALLO	RSV	24901	Augusta	AR	103.83	192.5	79.0	24.83
KABKFM	CP	24901	Augusta	AR	103.83	192.5	79.0	24.83
KABKFM	LIC	24902	Augusta	AR	85,71	203.4	58.0	27.71
From ch	annel 2	249A Pe	r D87-564					
WJZN	LIC-N	25501	Munford	TN	110.79	128.4	79.0	31.79
KFAYFM	LIC-Z	25201	Bentonville	AR	255.85	271.8	224.0	31.85
KOZX	LIC	251A	Cabool	МО	145.45	323.1	106.0	39.45
KTLOFM	LIC-Z	250C2	Mountain Home	AR	116.09	284.7	58.0	58.09
From ch	annel 2	252A Pe	r D92-176					
WDFX	LIC	252C3	Cleveland	MS	248.50	170.6	177.0	71.50
Commerc	ial Cha	annel O	perating Educationa	al				
WJZN.A	APP-Z	255C1	Munford	TN	158.81	130.6	79.0	79.81
WRIKFM	LIC	252A	Metropolis	ΙL	252.15	61.6	166.0	86.15
To Chan	nel 25	2C1 Per	One Step Applicati	Lon 9	41019IB	-From chann	el 252C	2 Per
D89-416								
WRJB	LIC	252A	Camden	TN	274.40	89.9	166.0	108.40
To Amen	d to C	hannel	240A Per D89-416					
KBXB	LIC-N	25002	Sikeston	MO	167.93	52.6	58.0	109 93
One-ste	p appl	ıcatıon	from Channel 250C	3				

Declaration

I declare, under penalty of perjury, that I am a technical consultant to broadcasting and other communications systems, that I have over twenty-five years of experience in the engineering of broadcast and other communications systems, that I am familiar with the Federal Communications Commission's Rules found in the Code of Federal Regulations Title 47, that I am a Professional Engineer registered in Arkansas, that I have prepared or supervised the preparation of the attached Engineering Statement, and that all of the facts therein, except for facts of which the Federal Communications Commission may take official notice, are true to the best of my knowledge and belief.

Timothy L. Warner, P.E.

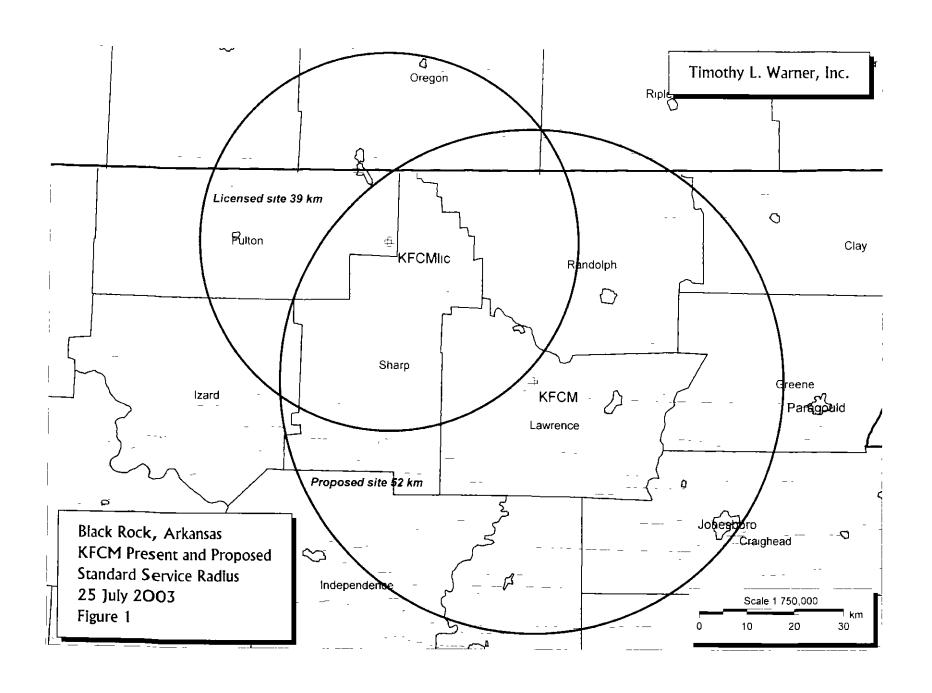
Post Office Box 8045

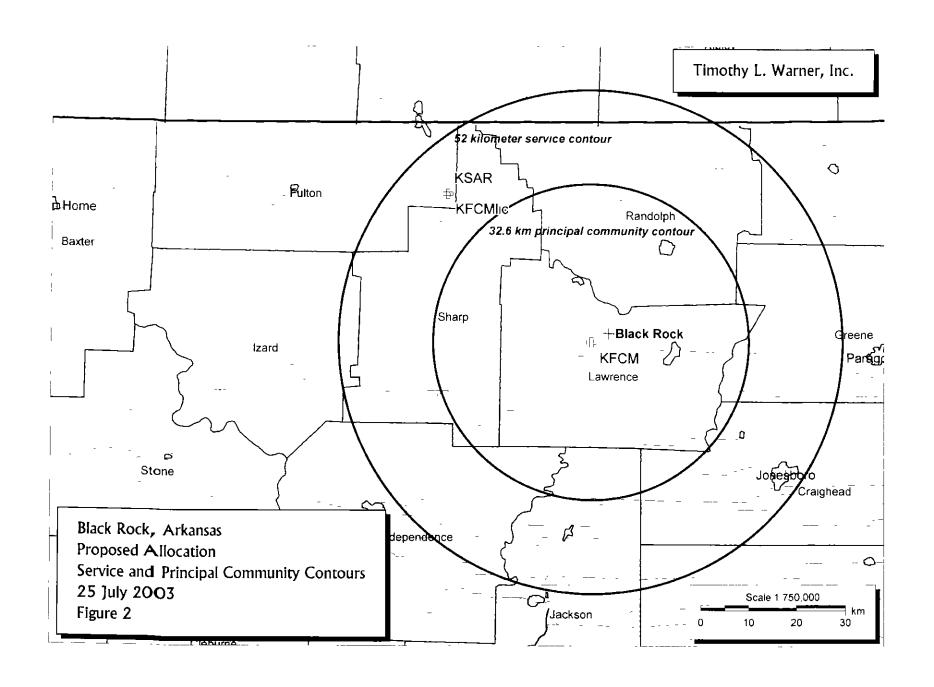
Asheville, North Carolina 28814-8045

Twistly LWarner

(828) 258-1238

4 August 2003





KFCM Allocation Study

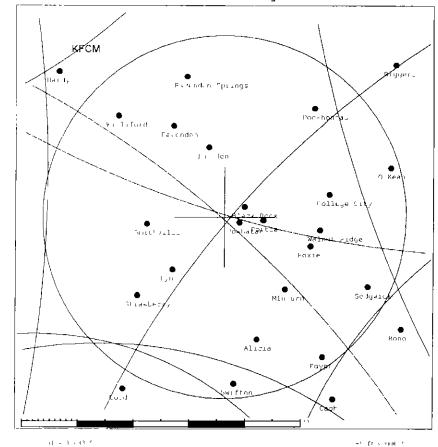
IMPONT WE FOCATE STUDY

Ch 252 C2 98.3 MHz

N. Lat. 36 05 25 W. Lng. 91 08 55

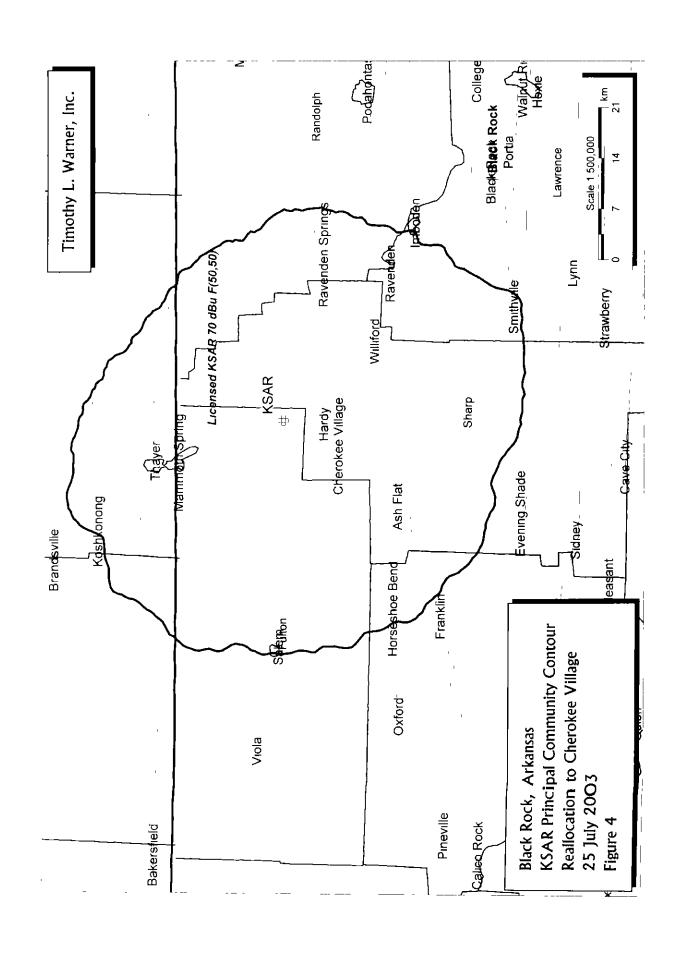
Dates:

Data:07-25-03 Job:07-25-03



Call	CH#	Туре	Location		D-KM	Azi	FCC	Margin
KFCM	252C3	LIC	Cherokee Village	AR	42,49	316.3	177.0	-134.51
KURB	253C*	LIC	Little Rock	AR	188.37	220.7	188.0	0.37
KTJJ	253C*	LIC	Farmington	MO	188.41	16.2	188.0	0.41
WSRRFM	251C1	LIC	Millington	TN	158.81	130.6	158.0	0.81
WRIKFC	252C1	CР	Metropolis	IL	248.69	72.0	224.0	24.69
ALLO.R	249C1	RSV	Augusta	AR	103.83	192.5	79.0	24.83
KABKFC	249C1	CP	Augusta	AR	103.83	192.5	79.0	24.83
KABKFM	249C2	LIC	Augusta	AR	85.71	203.4	58.0	27.71
WJZN	255C1	LIC N	Munford	TN	110.79	128.4	79.0	31.79
KFAYFM	252C1	LIC-Z	Bentonville	AR	255.85	271.8	224.0	31.85
KOZX	251A	LIC	Cabool	MO	145.45	323.1	106.0	39.45
KTLOFM	250C2	LIC-Z	Mountain Home	AR	116.09	284.7	58.0	58.09
$W\supset FX$	252C3	LIC	Cleveland	MS	248.50	170.6	177.0	71.50
WJZN.A	255C1	APP-Z	Munford	TN	158.81	130.6	79.0	79.81
WRIKFM	252A	LIC	Metropolis	ΙL	252.15	61.6	166.0	86.15
WRJB	252A	LIC	Camden	TN	274.40	89.9	166.0	108.40

Black Rock, Arkansas Area to Locate 25 July 2003 Figure 3



Population and Area Gains and Losses Proposed Allocation KFCM, Black Rock, Arkansas, Channel 252 C2 KSAR, Cherokee Village, Arkansas, Channel 222 C2

Description of Area	Area	Population
•	(square kilometers)	(Census 2000)
KFCM gain area	3,820	123,040
KFCM loss area	2,390	21,882
Loss area with only four services remaining ²	5	59
KFCM licensed service area	4,691	39,512
KFCM proposed service area	8,519	152,552
Overlap of licensed and proposed areas	2,301	17,630
KSAR gain area ³	0	0
KSAR loss area	0	0

KECM licensed area and population are based on existing parameters evaluated at one degree horizontal increments. Population is counted for each census block whose centroid falls within the contour. KFCM proposed facilities are based on reference allocation coordinates and an elevation which produces a standard eight radial reference height above average terrain (HAAT") which equals the class maximum HAAT. KFCM distances to the service contour were then calculated at one degree horizontal increments.

⁴ All remaining gain and loss areas are well served, with at least five aural services

^{&#}x27;Since there are no proposed changes to KSAR, there are neither gains nor losses